DOCUMENT RESUME

ED 336 853 EA 023 334

AUTHOR Mirochnik, Denise A.; McIntire, Walter G.
TITLE Homeschooling: Issues for Administrators. Occasional Paper Series, No. 12.
INSTITUTION Maine Univ., Orono. Coll. of Education.
SPONS AGENCY Penquis Superintendents' Association Research Cooperative, ME.
PUB DATE May 91
NOTE 57p.
PUB TYPE Viewpoints (Opinion/Position Papers, Essays, etc.) (120)

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS Educational Assessment; Elementary Secondary Education; *Home Programs; *Home Schooling; *Nontraditional Education; *Parents as Teachers; *State Legislation; *State Standards
IDENTIFIERS *Maine

ABSTRACT

The growth of home schooling over the last 20 years in Maine and across the nation, state responses, and current controversies are described in this paper. Following an introduction, the first part provides definitions and discusses legal concerns of home schooling. The next part provides a historical overview that examines public school leadership and home/school relations. The scope and characteristics of families who teach their children at home are described in the third part. The fourth section describes home schooling in Maine, with a focus on the application process and current legislation. The concluding section examines issues pertinent to local school officials (such as superintendent responsibility, parental rights, and funding) to higher education; and to parents. The recommendation is made to foster collaboration among all education stakeholders. One table is included. Appendices contain proposed revisions of rules for home instruction (Chapter 130). (40 references) (LMI)

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ED336853

College of Education
University of Maine
Occasional Paper Series:

No. 12

Homeschooling: Issues for Administrators

By

Denise A. Mirochnik, Ed.M.
Walter G. McIntire, Ph.D.

Developed and distributed with the support of the
PENQUIS SUPERINTENDENTS' ASSOCIATION RESEARCH COOPERATIVE

May 1991

EA 023 334

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HOMESCHOOLING: ISSUES FOR ADMINISTRATORS

BY

DENISE A. MIROCHNIK, ED.M.
WALTER G. MCINTIRE, PH.D.

MAY 1991

About The Authors

Denise A. Mirochnik, Ed.M. is a Research Associate for the Penquis Superintendents' Association Research Cooperative. She is currently a C.A.S. candidate in Educational Administration at the University of Maine. She received her Ed.M. at Harvard University and a B.S. in Journalism from the University of Nebraska.

Ms. Mirochnik has received several teaching and research grants from such organizations as the Massachusetts Council on the Arts and Humanities, and the Massachusetts State Department of Education. She was Project Associate on a curriculum grant awarded through the National Endowment for the Arts and Humanities. Prior to that, she was Director of Continuing Education at the Boston Architectural Center where she developed higher education/public school collaborative programs.

Walter G. McIntire, Ph.D. is Professor of Education and Director of the Center for Research and Evaluation, College of Education, University of Maine, Orono, Maine. A former high school science teacher, school board member, consultant and researcher, he has three decades of experience in rural and small schools of America. Dr. McIntire is the author or co-author of over 100 research papers and presentations to regional and national groups. He is currently Editor of the ***Journal of Research in Rural Education,*** a journal devoted to international scholarship addressing educational issues in rural and small schools.

HOMESCHOOLING: ISSUES FOR ADMINISTRATORS

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INTRODUCTION

Homeschooling: A Short Quiz

Answer each of the following by circling T (True) or F (False) next to the statement.

T	F	Homeschooling provides equivalent instruction
T	F	Homeschooling is a result of poor schools
T	F	Parents are qualified to teach their children
T	F	Homeschooling meets the social needs of children
T	F	Local school officials are supportive of homeschooling
T	F	Home instruction meets the academic requirements of public education
T	F	Home schooling is legal

Whether you answer "True" or "False" to each of these questions probably depends largely on deeply held personal convictions about the nature of schooling in America. The controversy surrounding homeschooling is largely a debate over society's need to ensure that all children receive an adequate education, often expressed through state control, and parental rights to choose schooling for their child. Its arguments can be found in the historical, philosophical and legal bases of American education. This paper examines the growth of homeschooling over the last 20 years in Maine and across the nation, analyzes states' responses to its growth and future, and explores current controversies around homeschooling.

Some Troubling Questions

Homeschooling, once common to frontier America, is experiencing a resurgence. Its proponents argue that homeschooling offers parents an alternative to what they believe is a failing public education system, and a chance to individualize their child's education. Many homeschoolers believe they are strengthening their families by spending more time with their children than other families. A substantial majority reject public schooling because they believe that religious faith is an integral part of education. Opponents argue that parents lack the professional expertise to develop curricula and adequately prepare their children; that homeschooling is not the same as public education and does not comply with state laws governing the education of every child. Lack of socialization and inadequate skills are often cited by administrators as "side-effects" of homeschooling while many homeschoolers believe churches and other voluntary organizations, as well as informal social networks, offer homeschooled children abundant opportunities for social interaction.

Homeschooling raises questions and concerns for administrators and parents alike and consensus is elusive. One central question plagues educators: What is the role of the local school regarding the homeschooled child? One central question also plagues parents who homeschool: Why doesn't, or didn't, "school" offer *my* child the education he/she needs(ed)? Embedded in these questions are several others: What services should schools provide? What role do, or should local administrators play in supervising homeschooled children? What is the role of the State Department of Education? Who advocates for the child when suspicion of abuse or neglect arises? Can a homeschooled child be truant? Will the state protect my right to homeschool? Who approves the homeschooling application? Is it really an application, or only notification that a parent is exercising a (God given) right? Why should parents be required to apply for homeschooling at all?

DEFINITIONS AND LEGAL CONCERNS

Defining Homeschooling

Defining homeschooling is troublesome and has come to mean more than teaching a child in the home as questions surrounding the relationship between the homeschooled student and their relationship or lack of to their community's public school are raised. Ray (1989) defined homeschooling as a "learning/teaching situation wherein children spend the majority of the conventional school day in or near their home in lieu of attendance at a conventional institution of education; parents or guardians are the prime educators of their children" (p. 5). Still, there are as many variations in the definitions of what constitutes "homeschooling," or what has come to be known by most state department's of education as "equivalent instruction," as there are states. Some homeschoolers reject definitions that parallel those used in public education; some administrators reject homeschoolers' definitions of equivalent instruction saying they do not constitute schooling.

In the state of Maine, "a person who wishes to obtain approval of equivalent instruction under rules established by the commissioner for equivalent instruction through home instruction shall simultaneously submit a completed application for approval to the local board and to the commissioner...." (State of Maine Laws Relating to Public Schools (1990), Title 20A, §5001-a(3)). The chapter which outlines the procedures and standards governing the review of the proposed equivalent instruction program, commonly known as homeschooling is found in Chapter 130, *Rules and Guidelines for Equivalent Instruction Through Home Instruction* (November, 1988, proposed revisions 1991) and can be obtained through the Department of Education. The proposed revisions to Chapter 130 are contained in Appendix A. The criteria specified in the accompanying application (also referred to as a notice of intent) bear strong resemblance to public education requirements. One

could wonder if this similarity is necessary, or advisable. As Steve Moitozo (1990) pointed out at the Maine State Superintendents' Conference in October, "if equivalent instruction = 4 (academic subjects) + 1 (physical education) = 175 days, then who needs it?"

Some 33 states recognize homeschooling, often as a special category of private education; 17 states and the District of Columbia consider homeschools private schools (Farris, 1989). Wording varies and allows parents to provide "equivalent," "regular and thorough," or "comparable" instruction (Rakestraw, 1990). Criteria for teacher certification, curriculum and attendance requirements also vary from state to state. What does not vary from state to state is the need for every child to be receiving some form of formal education regardless of the debate over what constitutes a school or what constitutes equivalent instruction. Farris (1989) contends that the Constitution of the United States protects the rights of parents to direct and provide their children's education. The state's interest is seeing that children *learn*...not seeing that they learn in a particular way (p. 14). The degree to which the state can set standards for teachers of homeschooled children and regulate course content is often subject to legal dispute.

In 1988, in an attempt to develop a comprehensive plan for state boards wanting to establish state-level standards regarding homeschooling, the National Association of State Boards of Education identified the following five basic elements that should characterize home schooling programs. NASBE has suggested (1) home-schooled children be required to register with the local county or state school system; (b) minimal criteria, such as teacher certification and appropriate curriculum materials, be established by states; (c) parents be required to report student progress to school officials quarterly for two years; (d) a system of evaluation be adopted for home schoolers; and (e) a system of probation and remediation be instituted for students who do not make adequate progress during the school year (Roach, 1988, pp. 10-14).

Collaborations between school and the homeschooled are encouraged in many states with homeschoolers receiving some

services in terms of athletics, library support or monetary compensation. For example, in Cupertino, California, families who homeschool are given $1,000 by the school district for educational materials merely by registering in that district's independent study program. Schools in that district offer homeschoolers a range of services, allowing them to pick and choose courses such as athletics or music if they choose (Uzzell, 1990). The Maine Secondary School Principals' Association similarly decided that homeschooled students should "retain all their eligibility for extracurricular activities" thereby making athletics and other activities available to homeschooled students (Bangor Daily News, December 4, 1990, p. 14). Many other administrators turn their backs completely, leaving the supervision of the homeschooled to Departments of Education, evidenced often only by mere approval of an application.

Homeschoolers have organized in response to the growing movement nationwide. Networks, mostly supported by religious organizations, have been formed to offer workshops, curriculum packages, and support to parents considering homeschooling. Some states have developed correspondence courses and correspondence teachers to serve even the most geographically isolated families needing assistance. In this instance, students are enrolled in the correspondence program (also referred to as a satellite school). Since the school is based in another state, it is not subject to the legal restrictions of the state where the homeschooled child resides. As with the case in the State of Maine, the students instructional program needs only to be approved by the Commissioner.

The best known organizations providing materials to homeschooled families are The Calvert School in Maryland and the Christian Liberty Academy (Lines, 1987, p. 512-513). Both organizations provide homeschoolers with individualized packages of curriculum materials, including textbooks and workbooks. Support networks are national, state-wide and local in scope. On the national level, the Moore Foundation, founded by Dorothy and Raymond Moore, supplies interested homeschoolers with a newsletter, conducts workshops in the United States and abroad and acts as a

consultant to international groups (International, 1989). Holt Associates, founded by the late John Holt, operates similarly. In Maine, there is a state-wide organization, the Maine Homeschool Association, Inc. (with a current membership of 2300 families) and some 28 local chapters (Maine Homeschool Association, 1989). A non-profit educational organization, MHA, Inc. offers its members a variety of benefits for a yearly membership fee. Its membership brochure lists the following benefits:

- MHA, Inc. provides literature and brochures to promote and support homeschooling statewide.

- MHA, Inc. provides referrals to local homeschooling support groups in every part of the state. Families find these local support groups most beneficial for ideas, field trips, exchanges, understanding, etc. Most local groups also maintain a telephone chain to help when you have a special need.

- MHA, Inc. has members who have years of experience in selecting and designing excellent curriculum/programs for children in all age and grade levels. We may be able to put you in touch with real help.

- MHA, Inc. acts as a clearinghouse to provide a consistent voice for homeschoolers.

- MHA, Inc. produces articles for publication and distribution which address specific topics on homeschooling and offer innovative ideas for assisting in the success of your homeschool.

- MHA, Inc. produces articles for publication and distribution which address specific topics on homeschooling and offer innovative ideas for assisting in the success of your

homeschool. It also produces a newsletter (10-11 issues per year) to keep homeschoolers informed of what's happening in this growing field of education.

•MHA, Inc. occasionally acts as an advocate for homeschooling families. From time to time, a member of MHA, Inc. will acts as a third party to intervene with officials to facilitate a family's homeschool.

Legal Concerns

The legality of homeschooling challenges parents and administrators alike. Where does responsibility legally lie to school the American child? With the state? The parent? The landmark *Pierce v. Society of Sisters* case (1925) set the precedent for continued parental involvement when the court ruled unconstitutional an Oregon state statute which ruled that all children must attend public schools. The court ruled in favor of a Catholic order which ran its own schools, on the basis that the Oregon statute under dispute "unreasonably interferes with the liberty of parents....to direct the upbringing and education of children under their control. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations" (Buchanan, 1987, p. 354). This decision led the way in allowing parents the right to choose private schooling as an alternative means of education. Numerous other state cases have cited this ruling when deciding similar litigation and it is often evoked when homeschoolers cite legal precedent in court disputes. *Meyer v. State of Nebraska* (1923), however, supports the opposing view. The Supreme Court ruled that "the education of youth is a matter of such vital importance to the democratic state and to the public weal that the state may do much, may go very far indeed, by

way of limiting the control of the parent over the education of the child" (Wendel & Konnert, 1988, p. 43).

While virtually every state allows homeschooling, protective legal restrictions abound and are subject to legal dispute. The controversy often centers around the amount of regulation of the state vs. local control. In some cases, parents frustrated by the lack of cooperating school districts have pleaded with legislators to remove local control. Others have amicable relationships with local officials and prefer their involvement. There are many variations between states.

More often than not compulsory education statutes come under litigation by concerned homeschooling groups seeking to challenge state authority and regulation. In some cases, courts have thrown out state compulsory education laws saying definitions were too broad, or vague and challenged individual rights to the free exercise of religion under the First Amendment. States most often respond by revising compulsory education laws to permit home instruction. Others have been less accommodating. In *State v. Riddle* (1981), the State of Virginia, though recognizing that parents may be providing "adequate" instruction, reinforced the state's upholding of compulsory education laws by admonishing those who sought to threaten them with these critical words:

> Parents have the right to keep their children [if they choose] in medieval ignorance, quarter them in Dickensian squalor beyond the reach of the ameliorating influence of the social welfare agencies and to so separate their children from organized society in an environment of indoctrination and deprivation that the children become mindless automatons incapable of coping with life outside of their own families (Zirkel & Gluckman, 1983, p. 38, cited in Frost & Morris, 1988, p. 224).

Current litigation often surrounds the requirement for a certified instructor to provide home instruction. Homeschooling proponents contend certification is an unnecessary requirement

advanced by state overregulation. Other litigation testing the states' ability to regulate home instruction includes cases regarding the extent to which a state can regulate the content of instruction, or number of instructional hours. The U.S. Supreme Court, to date, recognizes that a state has a legitimate interest in the education of children and allows reasonable regulation. But how much regulation is reasonable continues to be debated and litigated.

Homeschoolers believe education is the ultimate responsibility of parents and oppose state interference. They say parents' beliefs are overlooked when they are forced to send their children to schools which they believe do not represent their familial values and morals. They argue that state and local school officials are regulating too much, to the point of overstepping their bounds and infringing on individual basic rights. When the 1990 education goals were set following the National Governors Conference in September 1989, the notion of parental responsibility was reinforced when educational choice of public schools was endorsed. President Bush, following the lead from the Reagan years when several federally-funded voucher demonstration sites were developed, is also calling for educational choice as a way to improve schools and empower parents. Still public educators are uneasy. Why?

AN HISTORICAL OVERVIEW

Historically, children were taught at home during America's colonial and early national periods. Parents were responsible for what their children learned, and in many cases, how and from whom they learned. With the passage of the Tenth Amendment in the Bill of Rights in 1791, all powers not explicitly granted to the federal government were granted to the states. Education, in essence, became a function of the states, yet the states did not explicitly require that children become educated until compulsory education laws first appeared in the 1850s. Responsibility for education still rested largely with families, or with religious organizations. Families

were free to choose methods of instruction and had choice over curriculum, and many chose schooling which reinforced the family's moral and religious beliefs. There was no separation between church and state with regard to schooling.

By the early 1900s all states had set up "public" schools and by 1918 most had compulsory education laws. These laws immediately engendered litigation as to where the primary responsibility lay to educate the child -- with the parent or the state. Today's resurgence in interest in homeschooling has resurrected that fundamental discussion almost to the exclusion of any consensus surrounding the *goals* of American education. While many parents of homeschooled children may express dissatisfaction with the *conditions of schooling* in America, the need to reconceptualize organized education, and question the *quality* of American education, most homeschoolers would agree that children should receive some form of "schooling" to effectively function in society.

In the *20th Annual Gallup Poll of the Public's Attitudes Toward the Public Schools*, a majority of the public (53%) said they believed that parents should have the legal right to educate children at home. Only 28% said, however, that they thought it was a good thing for the nation and 82% believed that home school parents should be required to meet the same teacher certification standards as the public schools (Gallup and Elam, 1988, p. 41). One could infer from this survey, that while homeschoolers may receive support, there is a general concern about upholding standards of education and whether or not exercising parental right over education constituted a collective good.

Home schools today differ in purpose from the home schools of American colonial days largely due to differences in ideological beliefs. John Holt, a teacher, writer and early home school advocate once felt that school reform was possible, but later came to believe that conditions for true education "do not exist and cannot be made to exist within compulsory, coercive, competitive schools" (Holt, 1964, p. 11, cited in Rakestraw, 1990, p. 70). Raymond Moore, the founder of the Camas, Washington Moore Institute and credited by many

with starting the homeschool movement, has suggested that children should not be enrolled in formal school programs before the ages of 8 to 10 unless severely handicapped, decrying the institutional quality of public schools. He believes that parents should be assured their rights by the state to teach their children at home (Rakestraw, 1990, p. 70).

Moore, Holt and other educators often associated with the alternative school movement of the 1960s and 1970s found homeschooling an acceptable alternative to conventional schooling. During this time, many families expressed concerns over the quality of teaching and other prevailing practices in public schools. They turned to homeschooling as a way of removing their children from conditions over which they objected. A new wave of homeschoolers emerged in the late 1970s through the 1980s, but their motives were more often morally driven (Mayberry 1988a, Van Galen, 1988; Wartes, 1988). Ray (1989) has noted that approximately 70% of current homeschoolers nationally are biblical Christians who are actively involved in local churches (p. 7). This is consistent with Maine figures. According to Steve Moitozo, past-president of the Auburn-based Maine Homeschooling Association, "about 70% of Maine's homeschoolers are doing it [homeschooling] out of religious conviction...which reflects parental opposition to exposure to rock music, evolution, abortion, premarital sex, and the condoning of homosexuality" (Bangor Daily News, February 25, 1990, p. 30A).

Public School Leadership

One must reflect upon the origin of public school leadership in the history of American schooling to understand why superintendents are uneasy with the idea of homeschooling. The unease reaches back into debates as to the role of the superintendent, the place of school in the community, and the goal of educators and citizens alike to create the "one best system."

In the early 20th century, superintendents were responsible for the education of community members and were seen by the

communities they served as guardians of decorum and morality (Tyack, 1984, p. 177). Their position and authority was largely unchallenged.

While educational reformers sought changes in educational practice in the country, John Dewey and other social reconstructionists began stirring a debate over the role of schooling in promoting social change that continues today. Dewey and others believed that "the classroom would have to create conditions under which a variety of individuals, profiting from their diverse perspectives could discover and act on common purposes" (Tyack, 1984, pp. 202-203). These reformers also believed in eliminating top-down management, an idea which has periodically characterized reform movements with varying intensity. School reform today often calls for site-based management and decentralization, but public education has yet to eliminate "top-down" management. These reform measures are further contradicted by the growing national trend to increase state control over education.

As one observer noted:

> It used to be that a school superintendent, if he was at all successful, would have the feeling that he had the ability to mount a program and carry it through successfully. I think at the present time very few superintendents would be able to say honestly that they have this feeling. They are at the beck and call of every pressure that is brought to them. They have lost initiative. They don't control their own time...Mid-administration is very much floundering. They don't know whether they are teachers or administrators....There has been a change in the role of administrators from one who plans and carries through to one who works with groups of people in joint planning and ultimate realization of something the group can agree on (Kirst, 1976, pp. 19-20).

The blurred lines of authority caused by juggling federal, state and local mandates concern education officials looking for clarity of

role and purpose. Public school officials are no longer truly in charge, yet they are held accountable -- a paradox causing numbers to flee the field or experience high levels of stress.

As the role of the local school official is changing, the controversy surrounding homeschooling is illustrative of changes in choosing education. Homeschooling does not fit into a neat category; it is neither public nor private. As more and more states begin to open private schools to public school children and funding begins to follow the child, homeschoolers will continue to raise questions about the rights and responsibilities of parents and administrators. Tyack and Hansot (1982) suggest that administrators are protective of their expertise and believe that acceptance of nonstandard education would contribute to deprofessionalizing an already troubled field. Perhaps, public school administrators need to re-examine the issue of accountability with regard to homeschooling. As Farris (1989) noted,

> "the vast majority of homeschoolers think it is none of the state's business to be involved on a day-to-day basis with the education of their children. Ideally, under a godly system of accountability, if the parents are failing to teach, the first state of accountability should be grandparents; the second stage of accountability should be the church; and if that fails then....and only then...should the state get involved" (P. 15).

Yet, Education Commissioner Eve Bither has reported that in Maine a "sizable" number of students fall behind in their studies after leaving the public schools to learn at home (Bangor Daily News, January 7, 1991, p. 5). Who, then, is ultimately responsible? These nagging questions will remain until an acceptable alternative for both groups can be found.

Home-School Relations

At the crux of the homeschool debate is the resolution of the home and school relationship, a subject which historically has gained

attention in school reform literature. Current school reform efforts encouraging parental choice of school highlight the growing concern of many, particularly administrators, over involving parents to a degree without precedence in American public education. Parental choice of school surfaced most noticeably when Milton Friedman, in his book *Capitalism and Freedom* (1962), advocated for the reorganization of school finance to provide "vouchers" to parents through which to "purchase" education as one would purchase goods in a market. Though the idea of "purchasing" education has never caught on despite several demonstration projects, the idea of parental right to choose education has remained. Coons and Sugarman (1978) in *Education by Choice: The Case for Family Control* argued that parents should exercise control over their children's education through choice of school. Aside from the reorganization of school finance, administrators and parents have long negotiated various forms of involvement at the building level through parent-teacher organizations, teacher aide programs, various committees and so on.

Most often home and school negotiations have taken place through structures traditionally designated for such relationships, such as the parent-teacher organization and other activities mentioned above. Parental involvement in public education seems to depend upon a variety of factors, is and has historically been voluntary, and usually does not require active negotiation for services or classes. Rarely, do parents negotiate curriculum, for example. Home schooling parents, however, seek cooperation from school officials on a different level. Rather than wanting to be seen as "parents," they want to be seen as "educators." The interest by homeschool families to negotiate academics and/or extracurricular activities has met with a response that may have more to do with the lack of administrative structure or tradition than the hostility many homeschoolers claim they face.

Ray (1991) in a survey of home schooled students in four western states found that homeschool families were most interested in the use of school libraries, textbooks, certain classes, achievement

testing and sports programs. They were least interested in counseling services, field trips, health screening, special education and psychological services, or any other services difficult or expensive to provide at home. They said they were not interested in those services which would interfere with the way in which home school parents were educating and training their children.

Characterizing the relationship between home school families is complex. As Maddaus (1985) noted "whatever the specific situation, the basic issues [between home and school] seem to revolve around degrees of distance vs. interaction, of conflict v. cooperation" (p. 3). With regard to homeschool families, further dimensions involving interference vs. no interference and certainty vs. uncertainty seems to predominate.

SCOPE AND CHARACTERISTICS OF HOMESCHOOLED FAMILIES

Arriving at a precise estimate of the number of homeschooled children nationwide continues to elude policymakers. There simply is no standard way of counting these children. Educational researchers and policy analysts have primarily relied upon the cooperation of state departments of education, homeschooling and religious organizations, and other agencies for counts of homeschooled children. Estimates range from a low of 60,000 (Frost & Morris, 1988) to 120,000 to 300,000 (Feinstein, 1986; Lines, 1987, 1990). Estimates by John Naisbitt (1982) and Raymond Moore (1983) suggest there could be 1,000,000 or more. Ray (1989) suggests that a figure of 400,000 is a reasonable estimate.

Like arriving at precise numbers, little is actually known about the characteristics of homeschooled children since what information we have is provided voluntarily by parents, for the most part. When reviewing literature on homeschooling, few studies are found prior to 1981 with most studies taking place after 1984. The studies undertaken often were the result of information gathered from

homeschool associations and networks and state department files and was limited by their self-reporting nature. Some researchers have conducted case studies revealing characteristics specific to a group of home school families. Overall, little research has been produced that can be generalized to homeschooled families nationally, or even to a larger geographic region or locale. What we do know is that home schooling parents represent a cross-section of society though they share the common idea of removing their child from public schooling. Family profiles span a wide range: from the religious and political conservative right to the religious and political liberal left; the rich to the poor; the intellectual to the non-intellectual; the rural to urban.

A synthesis of research by Ray (1988) identified the following modal characteristics of home schooling families:

(1) Both parents are actively involved in the home school with the mother/homemaker as the teacher most of the time; (2) Parents have attended or graduated from college; (3) Total household income is $20,000 to $30,000 per year; (4) Over 70% regularly attend religious services, with a variety of religious backgrounds being represented; (5) Three children are in the family; (6) Formal instruction begins at 5.5 years of age; (7) A nearly equal number of boys and girls are educated at home; (8) 70% of the youth are 9 to 12 years old; (9) The learning program is flexible and highly individualized, involving both homemade and purchased curriculum materials; (10) Children are formally "schooled" three to four hours per day, and often spend extra time in individual learning endeavors; (11) They study a wide range of conventional subjects, with an emphasis on math, reading and science; (12) The home school has been in operation for at least two years; (13) Home education is chosen for various reasons, including concerns for both cognitive (e.g. to accomplish more academically and more individualized learning) and affective development (e.g. to learn selected religious or philosophical values, avoid peer pressure, greater parent-child contact, and better self-concept development of children (pp. 6-7).

One of the problems inherent in truly understanding the features common to home schooling families is a lack of data. Home school families are *not required* to list family characteristics on state application forms nor are they required to list reasons for homeschooling. Further, as explicitly cited in Maine's Chapter 130, *Proposed Revisions of Rules for Equivalent Instruction Through Home Instruction*, (1991), in Section 5A "the education records of students receiving equivalent instruction through home instruction have the same status under the United States Family Education Rights and Privacy Act of 1974, (F.E.R.P.A.) Public Law 93-380, as amended by Public Law 93-568, and the United States Education of All Handicapped Children Act, Public Law 94-142, as the education records of students in public and private schools, except that home instruction programs need not receive federal funds to be covered by F.E.R.P.A." As a result, our picture of the home school family is a composite, made-up of pieces interpreted through the data gathering efforts of individual researchers.

Mayberry (1989) identified four categories of home school parents as suggested by common themes raised by parents during interviews: (1) Religious beliefs (65%), these parents integrate religion and content areas toward the goal of instilling religious beliefs and values in their children; (2) Academic success (22%), individualizing instruction to accommodate their children's specific needs characterize these parents; (3) Social needs (11%), concerns over peer influence predominate the thinking of these parents who choose homeschooling. (4) Parents seeking a "New Age" orientation to schooling (2%). Though a minor group, these parents seek a learning atmosphere reflecting what they perceive as changing American cultural beliefs not evident in the public schools. These parents, as do most homeschooled parents, often want to restore family unity.

While it may be useful to try and understand the characteristics of the home school family, lists are generalizations and this should be kept in mind as well as the limited availability of gathering generalizable data. Perhaps the only commonality of home

school families is that they are as diverse as the programs they teach their children!

HOMESCHOOLING IN MAINE

In a memo published by the past president of the Maine Homeschooling Association (n.d.), Steve Moitozo, lists three ways people can conduct their homeschools in Maine:

- Seek state approval/recognition of their homeschool by the Department of Education under Chapter 130 pursuant to 20-A M.R.S.A. 5001-A (3) (A);
- File for recognition as a non-approved private school (defined below in detail);
- Notify no one, and do whatever you want.

Application Process and Procedures

Families in Maine seeking state approval for home instruction must submit an application (also informally known as a notice of intent by some homeschool families) to the Commissioner of Education to determine if the student(s) will be provided equivalent instruction within the meaning of compulsory school attendance requirements. The State of Maine Laws relating to Public Schools (1990) outline compulsory attendance requirements in Chapter 211 20A § 5001-A and specify procedures for the approval of equivalent instruction through home instruction in Chapter 211 20A §5001-A (3) (A).

Specifically the law reads:

> 3. ***Alternatives to attendance at public day school.*** Alternatives to attendance at public day school are as follows:
>
> A. Equivalent instruction alternatives are as follows.

(1) A person shall be excused from attending a public day school if the person obtains equivalent instruction in:

(a) A private school approved for attendance purposes pursuant to section 2901;

(b) A private school recognized by the department as providing equivalent instruction;

(c) A manner approved by the commissioner pursuant to subparagraph (3); or

(d) Any other manner arranged for by the school board and approved by the commissioner.

The Commissioner of Education reviews all applications for equivalent instruction programs to meet the criteria specified in Chapter 130, *Rules and Guidelines for Equivalent Home Instruction (1988, proposed revisions 1991).* Proposed revisions to the Chapter 130 guidelines in hearing this spring include more detailed annual assessment procedures than previously required (Appendix A, Section 4J). The proposed revisions to Chapter 130 specifically require an "annual assessment of the student's academic progress" to include at least one of the following options:

(1) provision for an annual, standardized achievement test through the local school unit or through other arrangements approved by the Commissioner;

(2) provision for a test developed by the local school unit appropriate to the student's educational plan (must be agreed to by the local school unit prior to submission of the equivalent instruction application);

(3) provision for annual review and acceptance of the student's progress by an identified individual who holds a valid Maine teacher's certificate;

(4) provision for the review and acceptance of the student's progress by a local advisory board selected by the

superintendent which shall include one administrative unit personnel and two home instruction tutors (must be agreed to by the local school unit prior to submission of the equivalent instruction application).

The proposed regulations do not include the provision for "an annual educational portfolio documenting student progress" as was allowed in previous years. In a recent newsletter published by the Maine Homeschool Association, current MHA President, Judy Stoodley wrote,

> "This week I caught up with Gary Barrett, and learned that the reason the Department wants to eliminate portfolio review is that it has become too popular! A year ago there were only about 80 requests for portfolio review, and this year there were over 400. The state doesn't know where and how it is going to find the manpower to conduct the review process, and how it is going to pay travel and meal expenses for those who agree to do it" (Stoodley,1991, p. 2).

Excluding the portfolio assessment option suggests the state is exercising more regulatory control over assessment than in previous years perhaps in response to administrator concerns over the lack of formal assessment procedures. We do not have reliable data available which indicates how many previously homeschooled students re-enter Maine's public schools. It is also unclear how assessment information is currently utilized by local school officials in the placement of currently enrolled public school students. By increasing regulatory control over formal assessment procedures and eliminating non-standard procedures, such as the portfolio review, the placement of homeschool students re-entering public schools will be less troublesome, it can be argued. The extent to which this concern mandates the exclusion of a previously popular assessment strategy, however, has not been clearly documented and should be further explored. The use of portfolio assessment has been adopted

city-wide in the public schools in Burlington, Vermont, for example. In addition, many institutions of higher education are beginning to recognize portfolio assessment as a valid means of evaluating graduate study.

Another revision would establish a State Level Appeals Advisory Board composed of an appointed state department chair, school official, and three homeschooling representatives conducting approved home instruction programs.

Until 1989, the law required that home school families apply to their local district, with the right of appeal to the Commissioner. Most denials were overruled on appeal, a process which undermined local control to some extent. Under the current law, families who want to homeschool submit applications directly to the Commissioner of Education for approval. A second application would be simultaneously sent to local school officials for review and to ascertain "completeness of information." This procedure has the effect of wiping out local control completely.

Current Legislation. In this 115th Legislature, several homeschooling bills were introduced which in effect would have strengthened the regulatory function of the state and provided homeschoolers with more access to local schools, if adopted. The Education Committee voted "ought not to pass" on three of the bills, L.D. 663, L. D. 888 and L. D. 904.

L. D. 663 would have directed the Department of Education to designate a range of regularly offered nonacademic programs to be made available to home-instruction students by the school administrative unit within whose jurisdiction they reside as well as access to academic facilities. Under current law, home-instruction students may only participate in school programs with the explicit approval of school authorities (L.D. 663, 1991, p.1). The bill did not specify what "range" of nonacademic programs would be made available to home instruction students, however.

L. D. 888 would have directed the Department of Education to establish a home instruction equivalency monitoring program. If

adopted, up to $1,000 of state aid for each student participating in approved home instruction would have been retained to carry out this process (L.D. 888, 1991, p. 1).

L.D. 904 would prohibit schools from subtracting from the period of eligibility a number of semesters greater than the number of semesters of academic credit the person receives for attending a home school. Currently, most secondary schools determine eligibility for interscholastic sports under rules by the Maine Secondary School Principals Association. Those rules include the "eight semester rule" which provides that a student is only eligible to participate in interscholastic sports for 8 consecutive semesters following the date on which the student begins secondary school. As a result of this rule, a student who transfers to public school from a home school program may become ineligible for sports as a result of spending 4 years in a home school after a certain age, even though the school may determine that the student is a sophomore or junior for academic purposes (L.D. 904, 1991, p. 2).

L.D. 830 would provide access for home school students to curricular, extracurricular and co-curricular opportunities at the school administrative unit within whose jurisdiction they reside. Under current law, school administrative units receive a 1/2 student subsidy for each home school student. The school administrative unit would receive full subsidy for full participation in these activities by home school students. However, home school students may participate in school programs only with the explicit approval of school authorities (L.D. 830, 1991, p. 2).

This bill is still in the Education Committee. The Committee has written a majority and minority report. The majority report would remove local boards from homeschooling and local subsidies for homeschool students. The minority report would remove local boards, but allow 1/2 subsidy for homeschoolers in those districts providing full access to curricular, extracurricular and co-curricular opportunities. Whether or not homeschooling families would benefit from either report is questionable. Many homeschoolers are not interested in full access to school facilities or opportunities. Those

that are are content to negotiate with local school officials. Many administrators are not interested in 1/2 subsidy for homeschoolers and still provide access. As MHA President Judy Stoodley commented, "Each report has benefits and drawbacks, depending on where you live, and/or your philosophy of the relationship of government money to your educational autonomy!"

It is not certain at this time how the bills will fare in the legislature, but it is clear that the state will continue to exercise more control over the homeschool/local school relationship in the form of specific criteria, especially with regard to assessment and curriculum, and possibly with regard to funding to allow homeschoolers better access to local schools. Homeschoolers could stand to gain if subsidies were given to parents directly to purchase school services. In Ray's (1991) survey, 72.5% of those homeschool families surveyed said they believed government should provide financial assistance in the form of tax credits or vouchers for use in home instruction (p. 16). The state is already engaged in transfers of funds from one school unit another for several other programs, including post-secondary enrollment options, superintendents' agreements, and town-tuitioning. If tax credits, or vouchers were made available to homeschool families, this type of funding system could have the effect of making homeschooling an attractive "choice" option for parents currently not homeschooling.

The application to home school in Maine is quite lengthy -- some eight pages--and requires detailed information concerning course of study and delivery. Some homeschoolers object to the application process and question why they must ask the state for approval to school their children in order to carry out their "God given right" (Moitozo, n.d.). Others comply, but believe they are merely filing a "notice of intent" with the state. While it is not known how many homeschoolers choose to "go underground" and avoid state regulation completely, it appears that most complete the application process.

There are two cases currently being litigated which reinforce the state's position of requiring parents to submit an application for

home instruction with the state. In *State of Maine vs. Shirley Adamson*, District Court 7, Docket No. 90-2813, Motion for Contempt, Mrs. Adamson is being held in contempt for failure to submit a home schooling application to the state, or register her children in school, public or private. As a result, truancy charges have been filed against her. This motion was filed as a result of a previous Superior Court decision directing Mrs. Adamson to apply for home instruction. A similar case, *Blount vs. State of Maine (Kennebec County)*, directed Ms. Blount to apply for home instruction or enroll her children in school after the Commissioner denied Mrs. Blount's application for a non-approved private school operating with two campuses. Coincidentally, in addition to Mrs. Blount's home as one "campus", the other "campus" was Mrs. Adamson's home. To date, neither of these home school families have submitted home instruction applications to the state, nor have they enrolled their children in school.

One application must be filled out for each child homeschooled each year. If filled out properly, approval is almost certain. According to Gary Barrett, School Approval Consultant, in an interview held in October, 1990, virtually "no [homeschool] applications are denied." If the program appears to provide "equivalent instruction under a qualified person" so as to comply with the state's compulsory education laws, then the application is approved.

Sound simple? It is. It is further simplified by the assistance many families receive in the application process through the Maine Homeschooling Association and education consultants around the state. "Many of the applications are beginning to look generic," according to Barrett, with the same curriculum and other program information filled in on each application.

Once approved, the monitoring and supervision of homeschool families is minimal. Under new criteria specified in Chapter 130 regulations, parents now must make annual arrangements for assessment. Some home schooling families keep in regular contact with local school officials, but most are on their own. There is no state or local supervision of curriculum, attendance, or length of

school day though the application requires a sample of weekly plans, verification the child attends school 175 days, and asks for a plan of quarterly evaluation.

Non-approved private school. Homeschool parents wanting to share the responsibility of teaching may do so under this category. The non-approved private school option is a direct result of a court case between the Maine Association of Christian Schools (MACS) and the State Department of Education in 1983. The case was a focus of national debate as the courts examined the role of the state with regard to the regulation of religious schools. The State Department of Education wanted to regulate the curriculum, staff and facilities of Christian schools in the state. The Maine Association of Christian Schools challenged the State Department's approval process as unlawful interference claiming religious freedom. The court upheld MACS, and as a result guidelines for non-Approved private school were created as a way for Christian schools to continue without state interference. One result of this court case was the definition of "school" as "any regular instructional program conducted for purposes of the compulsory attendance law which enrolls two or more *unrelated* students" (Chapter 130 Section 1C, 1991). Should the state continue to try to look for ways to increase regulatory control over homeschooling, many homeschool families may decide to gather together under the protection of this category.

Numbers are growing. Homeschooling applications are growing in the state of Maine. According to Gary Barrett, School Approval Consultant, there are 1521 applicants for the 1991/1992 school year (March, 1991) (See Appendix B). Of these applications, approximately 1200 are at the elementary level; 300 at the secondary level.

There were only 4 home instruction applications in 1981-1982, though the number of applications may not accurately portray the number of families actually homeschooling. It was only in 1983, with the court case *State of Maine v. McDonough*, that the court

ordered home schooling families to seek approval from the state. In this case, the parents sought to overturn a ruling in Penobscot County where the children were habitually truant. The parents refused to submit a plan for home instruction to the school board. The Chief Justice stated that the school authorities are fully justified in requiring parents to seek approval. If the state were to allow home instruction without apparent regard for quality and duration of the program it would, in effect, be depriving children of education. As a result, the state should establish reasonable guidelines for home instruction and application procedures of which parents must comply (summary, Gary Barrett, Department of Education). By 1985/1986, the applications had increased to 217, though it is unclear whether or not these families were "new" to homeschooling. They may have already been homeschooling, and were responding to the outcome of this court case. Applications continued to increase, however, and by 1988/1989, there were 704 applications. In 1989/1990 that number increased to 1162 (See Appendix B).

It is not clear why 4 homeschooling applications were on file in 1981-1982, since guidelines and criteria had not specifically been developed related to public law. Further, homeschooling activity is uncertain prior to the year of 1981/1982 when there apparently were no guidelines in place. Finally, though it is rumored that many parents homeschool their children "underground", the researchers were unable to document this activity and numbers, if any, are uncertain.

As of the spring of 1990, parents homeschooled their children in approximately 158 of the state's 280 school administrative units (56.4%) (Maddaus and Mirochnik, 1991, p. 72). Of these, 30 units reported ten or more home schooled students. These included: Lewiston (40), SAD 3 - Thorndike (34), Bangor (28), SAD 67 - Lincoln (26), SAD 57 - Waterboro (25), Augusta (22), SAD 34 - Belfast (21), SAD 75 - Topsham (20), Gorham (19), Portland (18), SAD 1 - Presque Isle (17), SAD 9 - Farmington (16), SAD 64 - Corinth (15), SAD 28 - Camden (14), SAD 6 - Buxton (14) and SAD 35 - Eliot (14). In a survey sent to all superintendents in the state to which 73

responded, thirty-two of the seventy-three superintendents (43.8%) reported that one or more formerly home schooled students had entered schools in their units for the 1990-1991 school year. In all, 122 such students were reported, including twenty-nine in one district and eighteen in another. The other superintendents all reported seven or fewer. Only three superintendents reported awarding high school diplomas to home schooled students in their districts (Maddaus and Mirochnik, 1991, p. 73).

CONCLUSION

An Analysis of What is Needed

Issues: Local School Officials. Reducing local control will continue to be an issue for school officials already caught in the ambiguous role of leadership with little authority. Removing superintendents from the homeschooling application approval process reduces their involvement further and strengthens the regulatory function of the state department of education. This trend has serious implications with regard to the policy-making authority of local school boards. As state regulatory functions increase, school boards will be limited in enacting school board policy.

By requiring parents to make an application for homeschooling, the state establishes a safeguard procedure toward the future monitoring and supervision of these children. Yet the application often gains automatic approval if filled out properly and there are no procedures for monitoring or supervising homeschooled children in place. In short, the current application process merely "registers" the child. The revised assessment procedures (Chapter 130, 1991), if adopted and implemented as now intended, will function to monitor educational progress and will ease the burden on administrators receiving homeschooled students back to school. Issues which continue to concern administrators include the adequacy of

supervision and monitoring of the home school program, whether or not the socialization needs of the child are being met, the role and responsibility of the school before, during and after the child has been homeschooled, the reliability of some parents to provide adequate instruction, and the effect home instruction will have on teacher certification, and the supervision of homeschooled students participating in public school classes, or extracurricular activities. A moving concern was aptly summarized by one superintendent when he was asked whether or not he thought a child had the right to be homeschooled. He responded, "Who will look after that child's welfare, if it isn't me? Who will be responsible if that child is abused, or neglected?" (Bernard Ryder, 1990, Maine School Superintendents' Association Conference, Augusta, Maine).

On the other hand, once a parent has decided to homeschool, the local school official becomes keenly aware that the school in that community may not be adequately serving its citizens needs. Perhaps, with alternatives available, school officials will give more careful scrutiny to public school programming and the individual needs of students.

Finally, there is the issue of parental rights. Currently, parents have limited choices with regard to the public schooling of their children. Presidents Reagan and Bush have endorsed the concept of parental choice of school, but few states have responded with viable choice programs. Milwaukee (WI) recently expanded that state's choice legislation to include private schools and Minnesota has for years had an education tax reduction aimed specifically at giving tax credit to parents who choose to place their children in private schools. Maine and Vermont are the only two states that town-tuition "public" school students to private academies. Parental choice of school legislation, if enacted by states, could pave the way for the widespread acceptance of homeschooling as yet another educational alternative.

Funding will become an issue as more and more choices become available to parents. A narrow interpretation of funding may mean that the child is merely recognized as homeschooled, with

no obligation on the part of the state. A broader interpretation could mean full funding awarded to the parent to "purchase" educational services for their child while schooled at home or at a private school. Both of these funding concerns are currently represented in the bills before the legislature.

School officials and state departments of education must closely examine the notion of "equivalent instruction" and how diplomas are issued for work completed. Should a high school diploma be the same for the home schooled child? Who is responsible for its issuance? What are the future legal implications for school districts should homeschooled students find themselves with inadequate skills?

Issues: Higher Education. Currently, a child receiving home instruction through grade 12 does not receive a traditionally accepted high school diploma. While it is uncertain how many students actually receive home instruction through grade 12, an admissions officer from the University of Maine recently questioned Gary Barrett of the Department of Education as to how to assess the educational progress of a homeschooled student applying for admission. Administrators in higher education will need to set criteria for homeschooled students within the guidelines for acceptance of other prospective entrants. Likewise, teacher preparation programs should include the study of the homeschool movement as part of their understanding of the nature and scope of American education.

Issues for Parents. In an hour-long debate on homeschooling at a recent statewide superintendents' conference, Steve Moitozo, past president of the Maine Homeschooling Association and current consultant to home schooling families, challenged the group of school officials to eliminate homeschooling in the state of Maine. In order to eliminate homeschooling, Moitozo contended that the public schools would have to provide: (1) a custom designed individualized education plan delivered one-on-one

to each child in the district; (2) provide socialization to *my* child *my* way; (3) deliver and teach *my* child *my* religious convictions; and (4) let me have all the time I want with *my* child (Maine State Superintendents Association Conference, October 1990).

Parents who homeschool want to be in control of their children's lives and are concerned that their rights to educate their children are in jeopardy. They want the right to exercise their moral and religious beliefs without interference. Further, homeschool parents want recognition and, more importantly, the full collaboration of local school officials toward the goal of providing their children with the best education possible. Gaining cooperation and acceptance from the local school district often is subject to the philosophy of individual districts. In some districts, homeschool parents wishing to access school facilities may find themselves rejected; in others homeschool parents will be able to participate in school activities freely. To many homeschool parents, lack of access and an uncooperative relationship with local school officials contribute to an atmosphere which will cause parents to cast an even more hostile eye toward public education.

Parents will need to consider the long-term goals for their children carefully and take a realistic view toward the requirements necessary for further education once their child's academic program is complete, or equivalent to grade 12. Parents will need to investigate individual post-secondary schools entrance requirements in terms of assessment and documented proof of educational progress. They will need to assure their children of a well-rounded academic experience emphasizing *all* their children's abilities -- athletic, creative and social.

Toward Collaboration

Clearly, state department personnel, local school officials and parents need to find ways to work together to arrive at the best possible programs for homeschooled children and respect homeschooling as a viable alternative to formal schooling. And,

perhaps, children should have some say in where and how they want to be schooled. It is important that the homeschooled family not be isolated from the community school and its members and activities nor the community school isolated from homeschooling members and activities. Representatives from homeschooling organizations need to be consulted and recognized as important members of the educational community. Public colleges and universities need to make services and training available to homeschooling organizations and family networks. Conversely, homeschooling families need to establish working relationships with local school officials and be open to requests for information and other data which help shape educational policy and planning.

We are ultimately talking about the lives of children--how they are socialized, how they grow and develop--and the responsibilities we, as adults--parents and educators-- have in providing the best possible future for children. Providing the opportunity for home school students to participate in local schools could help to create a new concept of what constitutes "public education" by acknowledging the need to recognize parents' contributions to their children's education.

In this paper, we have raised some issues we believe warrant further discussion. The authors recognize that parental issues and perspectives need further exploration. We hope the information presented in this paper will aid administrators in their understanding of the many issues facing school districts and their relationships with homeschooling families.

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APPENDIX A

CHAPTER 130

Proposed Revisions of Rules for Equivalent Instruction Through Home Instruction

Eve M. Bither, Commissioner
Maine Department of Education

Hearing Date: *Wednesday, April 3, 1991*

Hearing Time: *9:00 A.M. - 12:00 Noon*

Hearing Place: *Augusta Civic Center*

05-071 DEPARTMENT OF EDUCATIONAL-AND-CULTURAL-SERVICES

COMMISSIONER OF EDUCATIONAL-AND-CULTURAL-SERVICES

Chapter 130 RULES FOR EQUIVALENT INSTRUCTION PROGRAMS

SUMMARY: This chapter outlines the procedures and standards governing the Commissioner's ~~review~~ approval of proposed equivalent instruction programs, commonly referred to as "home schooling," pursuant to 20-A M.R.S.A. 5001-A (3)(A).

Section 1 DEFINITIONS

As used in this chapter, unless the content otherwise indicates, the following terms shall have the following meanings:

A. Commissioner: "Commissioner" shall mean the Commissioner of the Department of ~~Educational and Cultural Services~~ Education or the Commissioner's designee.

B. Equivalent instruction: "Equivalent instruction" shall mean ~~an alternative~~ a program of instruction approved under ~~this chapter designed to fulfill~~ the requirements of the compulsory school attendance law as an equivalent to attendance at a public school or an approved private school, as authorized by 20-A M.R.S.A. 5001-A (3) (A).

C. School: "School" shall mean any regular instructional program conducted for purposes of the compulsory attendance law which enrolls two or more unrelated students.

D. School board: "School board" means the governing body with statutory powers and duties for a school administrative unit.

E. School year: "School year", for the purpose of this chapter, is defined as a year starting on July 1st and ending on the following June 30th.

~~E.~~ F. Tutor: "Tutor" shall mean the parent(s) or other person(s) who acts or will act as the primary teacher of the student~~(s)~~ in an equivalent instruction program.

Section 2 SCHOOL BOARD ~~RULES~~ **POLICY**

A. The school board of every school administrative unit shall adopt ~~rules~~ **a policy** governing the review of the application**s** for ~~and review of~~ equivalent instruction programs. ~~as alternatives to attendance in the regular public day school program. These rules shall govern all alternative programs of instruction beginning in the school year starting July 1, 1985.~~

B. A current copy of the ~~rules shall be filed with the Commissioner. Copies shall be printed and~~ **policy shall** be made available to all interested individuals upon request.

C. The ~~rules shall include notice of the requirement that equivalent instruction programs be approved by local school officials and the Commissioner and shall further include notice of the right to appeal any denial of an application to the Commissioner.~~ **policy shall require that applications be reviewed by local school officials for completeness of information required by state rules.**

D. ~~An equivalent instruction program is subject to annual approval by the school board of the administrative unit where the student(s) resides. within 10 working days following the receipt of additional information.~~ **The policy shall require an annual review of each equivalent instruction program, including the annual assessment outlined in Section 4.J. by the school board or its designee.**

~~E. The rules shall be consistent with and shall be implemented in conformity with the requirements of this chapter.~~

Section 3 SCHOOL BOARD ACTION ON APPLICATIONS FOR EQUIVALENT INSTRUCTION

School boards shall provide for review of the applications for equivalent instruction through home instruction and submit comments on the completeness of the applications to the Commissioner within thirty (30) days of their receipt.

~~A. School boards will take action on applications for equivalent instruction through home instruction within 60 days of their receipt. Following consideration of an application for equivalent instruction through home instruction, the school board shall do one of the following:~~

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1.---Approve the application, or

2.---Allow at least 10 working days additional time for receipt of further information to correct deficiencies in the application.

B.---The school board shall approve or deny the application within 10 working days following the receipt of additional information.

C.---When the school board denies an application for an equivalent instruction program, the parent shall be given a written statement of the reason(s) for denial and notice of appeal rights to the Commissioner within five working days after the denial.

D.---Upon approval of an application for equivalent instruction, the superintendent of the school unit shall, within five working days, forward to the Commissioner the following:

(1)--a copy of the parent's application and a description of the equivalent instruction plan which meets the needs of the student(s) and includes all statutory requirements set forth in Title 20-A and rules promulgated thereto;

(2)--a copy of the minutes containing the school board's decision;

(3)--a copy of any report and recommendations prepared for the school board by the instructional or administrative staff of the school unit, including any Pupil Evaluation Team recommendations;

(4)--any other information which formed the basis of the school board's decision; and

(5)--any additional information submitted by the applicants to correct deficiencies in the application.

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Section 4 COMMISSIONER'S REVIEW OF EQUIVALENT INSTRUCTION APPLICATIONS

The Commissioner shall review all relevant material ~~forwarded-by the-school-unit~~ to determine if the student~~(s)~~ will be provided equivalent instruction within the meaning of 20-A M.R.S.A. 5001-A (3) (A). ~~In-making-a-determination-that-equivalent-instruction is---available,~~ The Commissioner shall ~~consider~~ **determine** whether the plan includes the following:

A. Competent instruction by a tutor who holds, or is eligible to hold, a certificate as a teacher in the State of Maine, or competent instruction by a tutor who will be assisted by a satisfactory support system. The support system shall include one of the following:

(1) provision for a certified teacher to work with the tutor on a regular basis, at a minimum of four times during the school year;

(2) provision for the tutor to receive regular assistance, at a minimum of four times during the school year, from a public school or an approved private school;

(3) provision for the tutor to receive regular assistance and supervision, at a minimum of four times during the school year, from another, approved, home instruction program which has been in operation for a minimum of one school year; or,

(4) provision for ~~a-support-system-which-otherwise satisfies~~ **other support systems approved by** the Commissioner;

B. An instructional day of adequate length of time to accomplish the proposed educational program; ~~plan-for the-student(s);~~

C. An instructional year which meets at least the minimum number of days required by statute (175 days);

D. A sample of a typical weekly instructional scheme describing the subject areas to be taught;

E. A syllabus (curriculum outline) of the educational program ~~for-the-student~~ which includes instruction in the basic curriculum required to be taught to students in public or private schools **in accordance with Chapter 127 for elementary and secondary school programs** ~~(Reading~~, **English**/language arts, math, science, social studies, physical education~~)~~, **health education, library**

instruction, fine arts, and, in at least one grade between grades 6 and 12, Maine Studies). The syllabus shall include a provision in grades 7-12 for the student to demonstrate proficiency in the use of computers.

F. A list or description of the instructional materials and textbooks which will be used ~~and made available to~~ by the student;

G. The tutor's plan of assessment which will accurately and adequately measure the student's academic abilities and progress in the proposed educational program at least four times during the school year;

H. A plan for record-keeping which charts the student's academic progress and records other pertinent information;

I. An identification and description of the support system selected to carry out the objectives of the educational plan; and

J. An annual assessment of the student's academic progress, which shall include at least one of the following:

(1) provision for an annual, standard**ized** achievement tests through the local school unit or through other arrangements approved by the Commissioner;

(2) provision for a ~~locally~~ test developed by the local school unit appropriate to the student's educational plan; (must be agreed to by the local school unit prior to submission of the equivalent instruction application)

(3) provision for annual review and acceptance of the student's progress by an identified individual who holds a valid Maine teacher's certificate; or ~~appropriate to the educational program identified in section 4 A I;~~

(4) provision for the review and acceptance of the student's progress by ~~either the state level advisory board identified in section 6 C, or~~ a local advisory board selected by the superintendent which shall include one administrative unit personnel and two home instruction tutors. ~~personnel who may be selected from outside the unit; or~~ (must be agreed to by the local school unit prior to submission of the equivalent instruction application)

(5)--provision-for-the-maintenance-of-an-annual educational-portfolio-on-the-student-which documents-the-student's-progress-in-meeting-the educational-objectives-of-the-plan-and-which-would be-presented-to-the-state-level-advisory-board identified-in-section-6-C--B-III-for-assessment.

K.--Permanent-Records

The-records-required-in-Section-4H-shall-be-made-a-part of-the-student's-permanent-record-and-shall-be maintained-by-the-parents-of-the-student-until-the-home instruction-program-concludes.--The-records-shall-be made-available-to-the-Commissioner-upon-request.

A-copy-of-the-results-of-the-annual-assessment-required under-Section-4-J-shall-be-filed-with-the-Commissioner annually.

L.---Filing-with-Local-Superintendent

The-person-conducting-the-equivalent-instruction program-shall-file-a-copy-of-the-annual-assessment required-under-section-4-J-with-the-local superintendent.

M.---Students-in-Need-of-Special-Education

Applications-for-equivalent-instruction-programs-may-be submitted-by-all-parents-or-guardians-regardless-of-the special-education-status-of-their-children.--School boards-will-use-the-same-criteria-in-judging-the equivalence-of-all-applications-regardless-of-any involvement-with-special-education.

School-boards-will-follow-the-Special-Education Regulations,-Chapter-101,-and-annually-inform-the parents-or-guardians-of-the-district's-responsibility to-provide-the-opportunity-for-special-education services.

N.---Equivalent-instruction-students-may-participate-in-the Maine-Educational-Assessment-(MEA)-but-are-not-required to-do-so.--If-a-parent-of-a-student-in-an-equivalent instruction-program-decides-to-have-the-child-take-the MEA,-the-student-must-do-so-at-a-local-public-school under-standard-testing-conditions.

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Section 5 ADDITIONAL REQUIREMENTS

A. Records

The records required by Section 4 (H) shall be maintained by the parents of the student until the home instruction program concludes. The records shall be made available to the Commissioner upon request.

The dissemination of information concerning students receiving equivalent instruction through home instruction is governed by the provisions of 20-A M.R.S.A. § 6001.

The education records of students receiving equivalent instruction through home instruction have the same status under the United States Family Education Rights and Privacy Act of 1974, (F.E.R.P.A.) Public Law 93-380, as amended by Public Law 93-568, and the United States Education of All Handicapped Children Act, Public Law 94-142, as the education records of students in public and private schools, except that home instruction programs need not receive federal funds to be covered by F.E.R.P.A. These laws govern the dissemination of information about students, as well as applications for equivalent instruction through home instruction, comments on the completeness of those applications and all education records of students receiving equivalent instruction through home instruction.

B. Filing Records

A copy of the results of the annual assessment required under Section 4 (J) shall be filed annually with the Commissioner and the local superintendent.

C. Students in Need of Special Education

Applications for equivalent instruction programs may be submitted by parents or guardians regardless of the special education status of their children.

School boards shall follow the Special Education Regulations, Chapter 101, and annually shall inform the parents or guardians of the district's responsibility to provide the opportunity for special education services.

D. Maine Educational Assessment

Equivalent instruction students may participate in the Maine Educational Assessment (MEA) but are not required to do so. If a parent of a student in an equivalent instruction program decides to have the student take the MEA, the student must do so at a local public school under standard testing conditions.

Section 5 6 ~~DEADLINE FOR APPLICATIONS~~ APPLICATION PROCESS

~~Applications for Equivalent Instruction shall be submitted to the school board at least 30 days before the proposed start of the program. School boards may allow exceptions to this rule in emergencies.~~

A. Submission of Applications

Applications for equivalent instruction shall be submitted to the Commissioner on forms provided by the Department of Education. At the same time a copy of the application shall be sent by the parent/guardian to the local superintendent of schools.

B. Annual Filing of Applications

Applications for equivalent instruction shall be submitted annually and for a single school year.

C. Start of Equivalent Instruction Program

Equivalent instruction programs may begin upon approval of the application by the Commissioner, or no later than the sixty day period provided for local comment and Commissioner approval.

Section 7 APPROVAL PROCESS, AMENDED APPLICATIONS AND FILING OF APPEALS

A. Decision on Initial Application

Within 30 days of receipt of the local school system's comments, the Commissioner, using state criteria established by this chapter, shall decide whether to approve the equivalent instruction application.

B. Opportunity to Submit Amended Application

If an application is denied, an amended application may be submitted to the Commissioner within 30 days after receipt of notice of denial. The notice shall state the reason for denial and shall inform the parent(s) of the right to submit an amended application. The notice shall also inform the parent(s) that if he or she does not wish to submit an amended application, an appeal may be filed with the Commissioner within 30 days after receipt of the notice of denial.

C. Decision on Amended Application

The Commissioner shall make a decision on an amended application within 30 days of its receipt. If an amended application is approved, the parent(s) shall send a copy of the amended application to the local school unit for information purposes. If an amended application is denied, the notice of denial shall inform the parent that an appeal of the denial may be filed with the Commissioner within 30 days after receipt of the notice of denial.

Section 78 APPEALS ~~OF SCHOOL BOARD DENIALS~~ PROCESS

~~A. Filing of appeals~~

~~If an appeal of a denial is taken, it shall be filed with the Commissioner within ten working days after receipt of notice of the denial. Each appeal shall include a copy of the proposed program for equivalent instruction, a copy of the school board's written denial and reason(s), and a statement of the parent's appeal.~~

~~B. Department and school unit response to appeals~~

~~Upon receipt of the parent's appeal, the Commissioner shall:~~

~~(1) provide the parent with a written notice of receipt;~~

~~(2) notify the superintendent in writing of the appeal and require the superintendent to forward the following information within 10 working days:~~

~~(a) the application for equivalent instruction through home instruction as submitted;~~

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(b)--any-request-for-additional-information-sent-to-the applicants;

(c)--any-additional-information-submitted-by-the applicants-as-a-result-of-the-request-for additional-information;

(d)--a-copy-of-any-staff-review-or-recommendations-made by-the-school-unit-on-the-proposed-program;

(e)--a-copy-of-the-school-board-minutes;

(f)--a-copy-of-the-notice-of-denial-sent-to-the-parent;

(g)--a-copy-of-any-other-relevant-material,-including the-student's-educational-records.

C.---Appeal-Procedure

The-Commissioner-shall-appoint-a-state-level-advisory board-to-review-all-materials-submitted-by-the-school unit-and-the-parent.--The-process-shall-operate-as follows:

(1)--The-Commissioner-shall-appoint-one-individual-from the-department,-to-chair-the-advisory-board,-one individual-from-the-administration-of-a-school administrative-unit,-and-three-individuals-who-are currently-conducting-approved-equivalent instruction-programs;

(2)--The-state-level-advisory-board-may-hold-a-fact-finding-hearing-to-hear-from-the-parents-and school-representatives-on-the-appeal;-shall-make-a finding-of-facts-and-shall-forward-those-findings along-with-its-recommendation-to-the-Commissioner;

(3)--The-recommendation-of-the-state-advisory-board shall-consider-the-application-for-equivalent instruction-as-it-was-acted-upon-by-the-school board-and-shall-be-based-on-the-criteria-in Section-4;

(4)--The-Commissioner-shall-inform-both-parent(s)-and the-superintendent-in-writing-as-to-the-final decision.-If-the-appeal-is-denied,-the-decision shall-be-deemed-a-final-agency-action,-within-the meaning-of-the-Maine-Administrative-Procedure-Act, and-appealable-to-the-Superior-Court;-if-the appeal-is-granted,-the-school--unit-shall-treat the-student-as-properly-excused-from-public-school attendance.

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~~(5)--The-Commissioner-may-proceed-directly-to-review and-approve-appeals-without-calling-a-meeting-of the-Home-Instruction-Advisory-board-for-appeals which-meet-the-state-requirements.--The-Home Instruction-Advisory-Board-shall-be-assembled-for appeals-which-are-in-doubt-or-likely-to-be-denied.~~

A. Convening of State Level Appeals Advisory Board

Upon receipt of an appeal that has been timely filed under Section 7, the Commissioner shall convene a State Level Appeals Advisory Board to hear the appeal.

B. Composition of the State Level Appeals Advisory Board

The Commissioner shall appoint one individual from the Department to chair the Appeals Advisory Board, one individual from the administration of a school administrative unit, and three individuals who are currently conducting approved equivalent instruction programs.

C. Hearings and Recommendations

The State Level Appeals Advisory Board may hold a fact-finding hearing and shall make a finding of facts, and shall forward these findings along with its recommendation to the Commissioner.

D. Decision on Appeals

The Commissioner shall inform both parent(s) and the superintendent in writing as to the final decision. If the appeal is denied, the decision shall be deemed a final agency action, within the meaning of the Maine Administrative Procedure Act, and appealable to the Superior Court. If the appeal is granted, the school unit shall treat the student as properly excused from public school attendance.

Section 6~~9~~: TRANSFER OF APPROVAL

Equivalent instruction programs which have been approved while the parents reside in one school administrative unit are approved for the entire school year regardless of any change of residence by the family. If the equivalent instruction program is to continue in the next school year, application must be made in the school administrative unit where the family ~~currently~~ resides.

Section 10: DISCONTINUATION OF HOME INSTRUCTION PROGRAM

In the event that the home instruction program is discontinued, students of compulsory school age must be enrolled in a public school, an approved private school, or a non-approved private school recognized for attendance purposes. The receiving school shall determine the placement of the student.

At the secondary level, credit may be awarded by the receiving school upon its assessment of the value of the home instruction educational experience, in accordance with Chapter 127:11 (A).

BASIS STATEMENT FOR AMENDED RULE EFFECTIVE ~~November 1, 1988~~

These rules are intended to define one manner, home instruction, in which educational programs are approved by the Commissioner as equivalent instruction. They are intended for use by individual families planning to instruct their own children. Instruction of non-related students is not the focus of these regulations. Such programs should seek approval or recognition as private schools.

~~It is not intended that school boards call extra meetings to hear home instruction applications or view any extra information which might be submitted. The time limitations are designed to bring about a timely decision on any home instruction application once it is submitted. Therefore, procedures which allow reasonable time for submission and consideration of home instruction applications meet the intent of these regulations.~~

~~These rules reflect the balance between the powers of local school boards and the Commissioner. Since equivalent instruction programs need approval by both groups, provision is made for local rules to differ from state rules. The intent is, however, that applications and appeals to the state will be judged based upon these regulations.~~

~~This revision was undertaken to clarify and revise the requirement that students instructed at home take the Maine Educational Assessment. Further change, discussed in the Response to Comments, was made in the applicability of special education requirements to home school students. This amended rule also clarifies ambiguities and inconsistencies that had been identified in the previous rule, and makes further minor changes discussed in the Response to Comments.~~

This revision was undertaken to ensure the consistency of this chapter with 20-A M.R.S.A., 5001-A (3) (A).

STATUTORY AUTHORITY: 20-A M.R.S.A. 5001-A (3) (A).
EFFECTIVE DATE: ~~November 1, 1988~~ July 1, 1991

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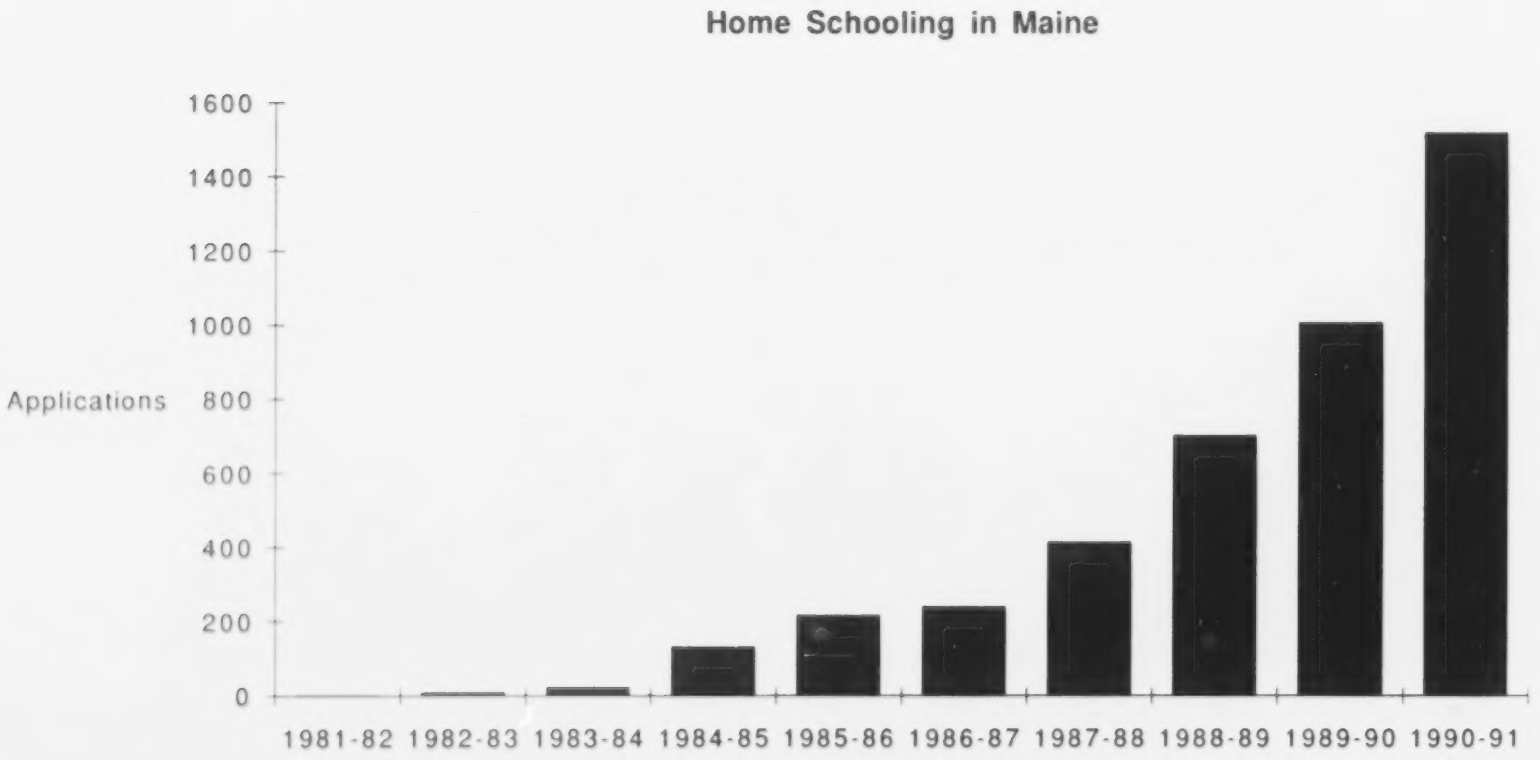
APPENDIX B


Home Schooling in Maine
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Published by:

Center for Research and Evaluation
College of Education
University of Maine
Orono, Maine 04469
Walter G. McIntire, Ph.D., Director
Denise A. Mirochnik, Research Associate
and Managing Editor
(207) 581-2493

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College of Education
Center for Research and Evaluation
Shibles Hall
University of Maine
Orono, Maine 04469-0121

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